

Chief Judge Robert S. Lasnik



09-CR-00335-VRDCT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES N. SCHWEDA,

Defendant.

NO. CR09-335RSL

ORDER AUTHORIZING
PRODUCTION OF DRUG
EXHIBIT FOR TESTING BY
DEFENSE EXPERT

The United States and the Defendant, James N. Schweda, through counsel, jointly have moved for an Order authorizing the United States Drug Enforcement Administration (hereinafter DEA) to produce the following Drug Exhibits, as described in DEA FORM-7, "Report of Drug Property Collected, Purchased or Seized," in Case File No. RE-08-0065, dated August 20, 2008, for identification and quantitative analysis of the controlled substance contained therein by a defense expert:

1. 100, DEA Laboratory Number 7148082
2. 101, DEA Laboratory Number 7148083
3. 102, DEA Laboratory Number 7148084
4. 103, DEA Laboratory Number 7148085
5. 109.01, DEA Laboratory Number 7148091
6. 109.02, DEA Laboratory Number 7148091

1 7. 110, DEA Laboratory Number 7148092

2 8. 115, DEA Laboratory Number 7148097

3 Defendant has agreed to waive any challenges to chain of custody of the
4 aforementioned Drug Exhibits incident to or arising from the defense examination, and
5 agrees to the following conditions under which the production shall occur.

6 Upon consideration of the Motion and applicable law,

7 IT IS HEREBY ORDERED and DECREED in accordance with Federal Rule of
8 Criminal Procedure 16(a)(1)(E), that the United States shall allow the defense to
9 independently inspect and analyze a representative sample from the above-listed drug
10 exhibit; and

11 IT IS FURTHER ORDERED that a Drug Enforcement Administration Special
12 Agent or Task Force Officer shall deliver the drug exhibit identified above to:

13 **Dale Mann**
14 **Senior Forensic Chemist, MDE Inc.**
15 **700 South industrial Way**
16 **Seattle, WA 98108**

17 **Phone: 206-622-2007**

18 **DEA License # RM0242975**
19 **Washington State Pharmacy # FX00056246**

20 The DEA Western Laboratory shall arrange the delivery of said exhibits, not later
21 than ten business days following the date this Order is filed, to the DEA Special Agent or
22 Task Force Officer for delivery to Dale Mann, Senior Forensic Chemist, at MDE Inc.;

23 and

24 IT IS FURTHER ORDERED, that upon delivery of the exhibits identified above
25 to the defense expert, that a DEA Special Agent or Task Force Officer shall be present
26 when the defense expert inspects, weighs, and removes a representative sample of the
27 exhibit for analysis. The representative sample shall be in the amount of 500 mg, or not
28 more than one-half ($\frac{1}{2}$) the current reserve weight, if less than 1 gram presently remains
as the reserve weight. The weight of each representative sample taken shall be
documented and signed by the defense expert and provided to the DEA Special Agent or

1 Task Force Officer in attendance. Upon the completion of the sample removal and
2 weighing, the defense expert shall, forthwith, return the rest of the above-listed exhibits to
3 the DEA Agent and Task Force Officer in attendance; and

4 IT IS FURTHER ORDERED, that the defense expert shall conduct the
5 identification and quantitative analysis ordered herein, and shall provide the Government
6 with an Unsworn Declaration Under Penalty of Perjury, under 28 U.S.C. § 1746, executed
7 by the individual who conducted the analyses, or the head of the facility where the
8 analyses occurred, which states the quantity of each exhibit consumed during testing, and
9 either the weight of each exhibit returned to the United States, or a statement that all
10 sample was consumed during testing; and

11 IT IS FURTHER ORDERED that all remaining material of the sample, after
12 testing, is to be returned by Dale Mann to the DEA Western Laboratory via registered
13 U.S. mail, return receipt requested, or approved commercial carrier, within five (5)
14 business days after the completion of analyses; and

15 IT IS FURTHER ORDERED, in accordance with Federal Rule of Criminal
16 Procedure 16(b)(1)(B), that the Defendant shall provide the Government with a copy of
17 the results or report of the physical examinations and scientific tests or experiments which
18 resulted from the analyses conducted under this Order; and

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1 IT IS FURTHER ORDERED, that Dale Mann is to safeguard the representative
2 sample received, preserving the chain of custody in a manner to faithfully protect the
3 integrity of each exhibit received.

4 SO ORDERED this 25th day of January, 2010.

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7 ROBERT S. LASNIK
United States District Court Judge

8 SUBMITTED BY

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18 APPROVED AS TO FORM:

19 s/Via Email
20 HOWARD PHILLIPS
21 Attorney for James N. Schweda
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